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31. (New) The apparatus for post treatment of a stenosed region of claim 24, wherein the dose means incorporated into the balloon material is a liquid.

32. (New) The apparatus for post treatment of a stenosed region of claim 24, wherein the dose means incorporated into the balloon material is a gas.

33. (New) The apparatus for post treatment of a stenosed region of claim 6, wherein the apparatus controls the exposure of the dose means by controlling the radial direction and axial position of the cut out.

**REMARKS**

This application has been reviewed in light of the Office Action mailed September 15, 2000 (hereinafter "Office Action"). Claims 1-27 are pending in this application with claims 1-27 being rejected by the Office Action. By this amendment, independent claims 6 and 10 are amended as well as dependent claims 17 and 19-24. New dependent claims 28-29 and 33 depend from claim 6. New dependent claims 30-32 depend from independent claim 10. Claims 22 and 26-27 are canceled without prejudice.

New claims 28-33 submitted herein are believed to be in condition for allowance.

Upon notice of allowance applicant will provide an offer to surrender in accordance with 37 C.F.R. 1.178 and a reissue oath/declaration in accordance with 37 C.F.R. 1.175(b)(1).

It is respectfully submitted that amended Claims 18-19 are now in compliance with 35 U.S.C. § 112, second paragraph.

Support for the foregoing amendment is found through this specification and figures. In view of the amendments above and remarks that follow, reconsideration and allowance of this application has been respectfully requested. The claims have been amended in a manner which is

believed to overcome the rejections contained in the Office Action. No new matter or issues are believed to be introduced by this amendment.

**CLAIMS REJECTIONS UNDER 35 U.S.C. § 102(b)**

Claims 6-7, 10-11, 19-21, 24-27 stand rejected under 35 U.S.C. § 102(b) over *Weinstein et al.* (U.S. Patent No. 5,213,561).

It is respectfully submitted that amended independent claims 6 and 10 are neither disclosed nor suggested by *Weinstein et al.* With regard to amended independent claim 6, *Weinstein et al.* discloses an outer sleeve 3 of a guidewire 1 slidable over an inner wire 5 for a distance sufficient to cover and uncover radioactive material 9, so that the shielding section 11 of the outer sleeve can be moved away from the radioactive material 9 to expose the angioplasty site to radiation. See col. 3, lines 47-56, and FIG. 1, below. Thus, *Weinstein et al.* deploys and treats the entire exposed surrounding area for restenosis upon the shifting of outer sleeve 3 and exposing of the radioactive material 9.

In regard to amended claim 6, *Weinstein et al.* fails to teach or suggest, *inter alia*, the recited dose being exposed to the stenosed region of the artery through a cut-out defined in a housing in a deployed configuration. Thus, amended claim 6 has structure that includes a device defining a cut-out through which treatment of the stenosed region is conducted. See col. 3, lines 20-40, and FIG. 1., below. Thus, amended claim 6 includes a device structure having a window for selectively treating the vascular portions that have developed restenosis at the angioplasty site, a device that is neither contemplated nor suggested by *Weinstein et al.* Accordingly, withdrawal of this rejection is requested.

It is respectfully submitted that dependent claims 7, 20, and 21 are patentable for at least the reasons that independent Claim 6 from which they ultimately depend is patentable. Accordingly, withdrawal of this rejection is respectfully requested.

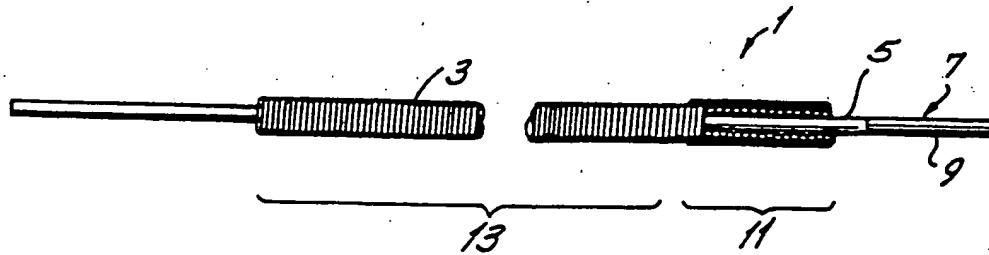


FIG. 1

FIG. 1 of *Weinstein et al.*

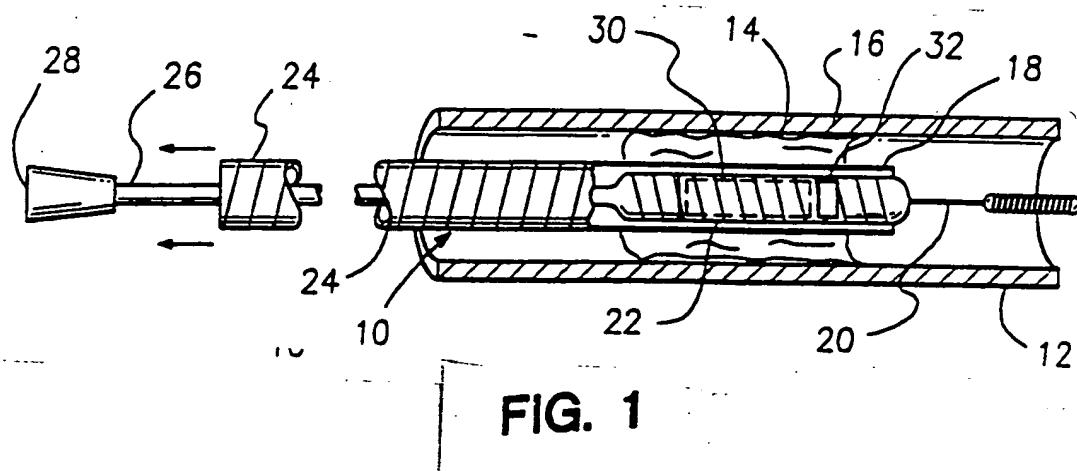


FIG. 1

FIG. 1 of present disclosure

With respect to amended claim 10, *Weinstein et al.* discloses a second embodiment wherein radioactive material 25 is embedded in or mounted on a tube 17 inside a balloon 19. A retractable radiation shielding sleeve 27 is slidable along tube 17 and covers source 25, blocking

exposure to radiation until it is shifted away. Note sleeve 27 is in a fixed position inside of balloon 19. See col 3 line 57-col. 4 line 5, and FIG. 2, below.

In regard to amended claim 10, *Weinstein et al.* fails to teach or suggest, *inter alia*, the newly recited positioning a portion of the catheter in contact with the stenosed region and the radiation source in close proximity to, but not in contact with the stenosed region of the artery. See col. 4, lines 4-12; col. 3, lines 41-59, and FIGS. 2 and 4, below. Thus, amended claim 10 includes positioning the catheter in contact with the stenosed region and the radiation source in close proximity to, but not in contact with the stenosed region of the artery to provide angioplasty and restenosis treatment and withdrawing the radiation source from the artery, a device that is neither contemplated or suggest by *Weinstein et al.*. Accordingly, withdrawal of this rejection is requested.

It is respectfully submitted that dependent claims 11, 19, 24 and 25 are patentable for at least the reasons that independent claim 10 from which they ultimately depend is patentable. Accordingly, withdrawal of this rejection is respectfully requested.

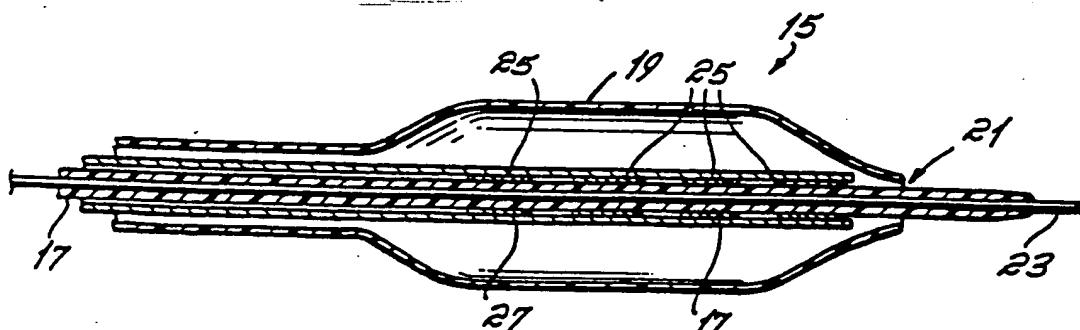
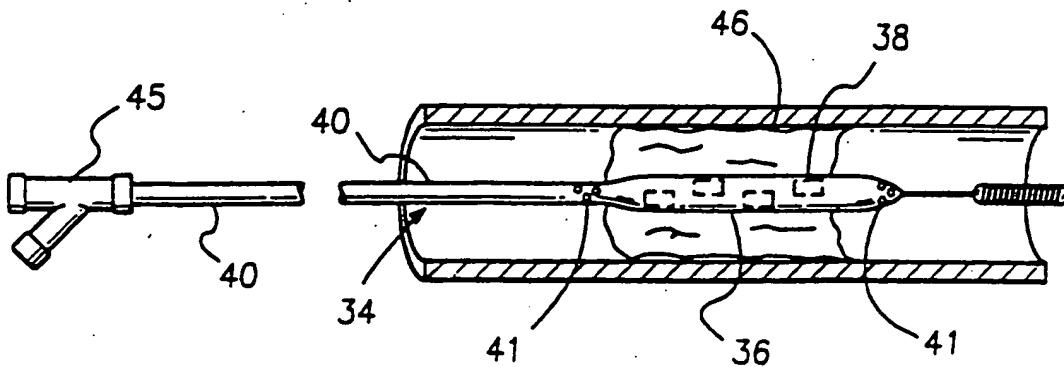
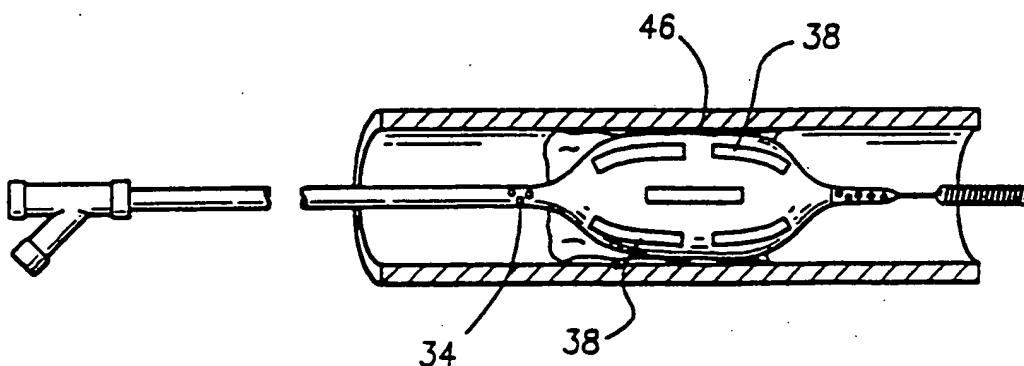


FIG. 2

FIG. 2 of *Weinstein et al.*



**FIG. 2**



**FIG. 4**

FIGS. 2 and 4 of present disclosure

**CLAIM REJECTIONS UNDER U.S.C. §103**

In the Office Action, claims 8-9 and 12-13 stand rejected under 35 U.S.C. § 103(a) over *Weinstein et al.* It is respectfully submitted that amended independent claims 6 and 10 are distinguishable and non-obvious over *Weinstein et al.* as noted above and therefore claims 8-9 and 12-13 are patentable for at least the reasons that independent claims 6 and 10, from which

they respectively depend, are patentable. Accordingly, withdrawal of this rejection is respectfully requested.

### CONCLUSION

It is respectfully submitted that none of the references of record disclose or suggest the present invention as claimed in claims 6-21 and 23-25 as amended and new claims 28-33. Accordingly, withdrawal of this rejection is respectfully requested. In view of the foregoing amendments and remarks, reconsideration of the rejections and allowance of the claims are earnestly solicited.

Respectfully submitted,

  
David M. Carter  
Registration No. 30, 949  
Attorney for Applicant

DILWORTH & BARRESE, LLP  
333 Earle Ovington Boulevard  
Uniondale, New York 11553  
(516) 228-8484